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6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 IN THE COUNTY OF SAN DIEGO

9 1122 412103 2 384590 2-3 1

10 PAUL SAMUEL SHEPHERD,)

11 Plaintiff,)

12 -vs-)

NO. 384590 614

COMPLAINT

13 DENNIS PARTEE, JAMES PIERCE, GARY)
14 GARRISON and CINEMATRONICS, INC.,)
15 a California corporation, and)
16 DOES I through V, Inclusive,)

Defendants.)

17 Plaintiff alleges:

18 FIRST CAUSE OF ACTION

19 I

20 At all times herein mentioned, plaintiff PAUL SAMUEL
21 SHEPHERD was and is an adult over the age of 21 years and a
22 resident of the City of San Diego, County of San Diego, State of
23 California.

24 II

25 At all times herein mentioned, defendants DENNIS PARTEE,
26 JAMES PIERCE and GARY GARRISON were and are adults over the age
27 of 21 years and residents of the City of San Diego, County of
28 San Diego, State of California. At all times herein mentioned,

1 defendant CINEMATRONICS, INC., a California corporation, was a
2 California corporation licensed as such by the State of California
3 with its principal place of business in the City of San Diego,
4 County of San Diego, State of California.

5 III

6 The true names and capacities, whether individual, corp-
7 orate, associate, or otherwise of defendants DOES I through V,
8 Inclusive, are unknown to plaintiff, who sues such defendants by
9 such fictitious names and will ask leave to amend this Complaint
10 to show their true names and capacities when the same have been
11 ascertained.

12 IV

13 On or about April 1975, in the City of San Diego, County
14 of San Diego, State of California, defendants, and each of them,
15 falsely and fraudulently, represented to plaintiff that as the
16 incorporators of Cinematronics, Inc., defendants Partee, Pierce
17 and Garrison would give to plaintiff exactly 5% of the stock to
18 be issued in Cinematronics, Inc., in consideration for plaintiff's
19 efforts in designing and developing the cabinetry for the product
20 that was to be manufactured and distributed by Cinematronics, Inc.

21 V

22 The representations made by defendants, and each of them,
23 were in fact false. The true facts were that defendants, and each
24 of them, had no intention of transferring the 5% interest in
25 Cinematronics, Inc., to plaintiff.

26 VI

27 When defendants, and each of them, made these representa-
28 tions, they knew these representations to be false; these

1 statements were made by defendants, and each of them, with the
2 intent to defraud and deceive plaintiff and to induce plaintiff to
3 act in the manner herein alleged.

4 VII

5 Plaintiff, at the time said representations were made,
6 was ignorant of the falsity of the representations made by
7 defendants, and each of them, but plaintiff believed said representa-
8 tions to be true. In reliance thereon, plaintiff was induced to
9 and did continue to work for and in the best interest of
10 Cinematronics, Inc., until such time as he was wrongfully discharged.
11 Had plaintiff known the true facts, plaintiff would not have taken
12 such actions.

13 VIII

14 By reason of the facts alleged herein, plaintiff has been
15 damaged in an amount known only to defendants, and each of them,
16 but which amount represents 5% of the net worth of Cinematronics,
17 Inc.

18 SECOND CAUSE OF ACTION

19 I

20 Plaintiff hereby realleges Paragraphs I, II, and III of
21 his First Cause of Action and incorporates them herein in this,
22 his Second Cause of Action as though fully set forth.

23 II

24 On or about February 1975, plaintiff and defendant James
25 Pierce entered into preliminary negotiations regarding plaintiff's
26 services in design and manufacturer of a certain type of electronics
27 video game. It was originally represented to plaintiff by
28 defendant James Pierce that plaintiff was to receive a 15% interest

1 in the business that was to be established for purposes of manuf-
2 acturing and distributing these electronic video games and that
3 plaintiff was to receive a salary of \$500.00 per week for his
4 services involved in the manufacture of the electronic video games
5 by the company that was to ultimately be formed.

6 III

7 After several discussions between plaintiff and defendant
8 James Pierce, plaintiff had an opportunity to meet in the office of
9 defendants attorney with defendants Pierce, Garrison and Partee for
10 purposes of finalizing plaintiff's participation in the corporation
11 that was then to be created for the distribution of the electronic
12 video games, a business that was to be known as Cinematronics, Inc.,
13 a California corporation.

14 IV

15 At this meeting in the offices of the defendants attorney
16 in April 1975, it was agreed that plaintiff should have and receive
17 a 5% interest in that business known as Cinematronics, Inc., a
18 California corporation, and that plaintiff was to receive as a
19 salary for his services in the manufacture of these electronic
20 video games, the sum of \$300.00 per week.

21 V

22 Plaintiff has performed each and every act and thing
23 required of him to be performed according to the terms and con-
24 ditions of the agreement.

25 VI

26 On or about August 17, 1975, defendants, and each of them,
27 breached the aforementioned agreement by discharging plaintiff from
28 the employ of Cinematronics, Inc.

1 VII

2 As a result of defendants, and each of them, breach of
3 the aforementioned oral contract, plaintiff has been damaged in
4 an amount known only to defendants, which sum amounts to 5% of
5 the net worth of that business known as Cinematronics, Inc., a
6 California corporation.

7 THIRD CAUSE OF ACTION

8 I

9 Plaintiff hereby realleges Paragraphs I, II, and III of
10 his First Cause of Action in this, his Third Cause of Action, and
11 incorporates them herein by this reference.

12 II

13 Defendant Cinematronics, Inc., is, and at all times
14 herein mentioned was, a corporation organized and existing under
15 the laws of the State of California, with its principal place of
16 business in this State in the City of San Diego, County of San
17 Diego, State of California.

18 III

19 Defendants James Pierce, Gary Garrison and Dennis Partee
20 were the incorporators for that business known as Cinematronics,
21 Inc., a California corporation. Plaintiff was an officer of said
22 corporation until August 17, 1975, and was then, and still is, a
23 part owner of said California corporation to the extent of 5% of
24 the net worth of this corporation.

25 IV

26 As a result of the incorporation of the above-mentioned
27 California corporation, defendants Pierce, Partee and Garrison
28 have received money, a portion of which is due to plaintiff from

1 defendants, and each of them, as previously alleged.

2 V

3 The amount of money due from defendants, and each of them,
4 to plaintiff is unknown to plaintiff and said sum of money cannot
5 be ascertained without an accounting of the receipts, disbursements
6 and issuance of stock in the aforementioned California corporation.
7 Plaintiff is informed and believes and thereupon alleges that the
8 amount due to plaintiff exceeds the sum of \$5,000.00.

9 VI

10 Plaintiff has demanded an accounting of the aforementioned
11 monies from defendants, and each of them, and payment of the amount
12 found due, but defendants, and each of them, have failed and
13 refused, and continue to fail and refuse, to render such an account-
14 ing and to pay said sum.

15 WHEREFORE, plaintiff prays:

16 FIRST AND SECOND CAUSES OF ACTION

17 1. For general damages in an amount equal to 5% of the
18 net worth of that business known as Cinematronics, Inc., a
19 California corporation;

20 2. For costs of suit herein incurred; and

21 3. For such other and further relief as the court may
22 deem just and proper.

23 THIRD CAUSE OF ACTION

24 1. For an accounting between plaintiff and defendants, and
25 each of them;

26 2. For the amount found to be due from defendants, and
27 each of them, to plaintiff as the result of the accounting, and
28 interest on that amount from and after August 17, 1975;

